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Type of Instrument: JUDGMENT OF FORECLOS

Recorded: 1/8/2018

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Index Number: 14 /0079 Sequence Number: 132

Plaintiff(s) :

U.S. Bank National Association, as Trustee, successor in interest to W
ilmington Trust Company,

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Defendant(s) :

Russo, Salvatore

Attorney(s) :

TAX_MAP_NO:

Liber Page(s):
M00020924-757

ADDITIONAL INFORMATION EXISTS PLEASE SEE DOCUMENT
THIS PAGE IS A PART OF THE INSTRUMENT
THIS IS NOT A BILL

Judith A. Pascale
County Clerk, Suffolk County

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At IAS Part 49 of the Supreme Court of the State of New York held in and for the County of Suffolk, at the Courthouse thereof at ~~Riverhead~~ Central Islip, New York, on December 11, 2018.

Present: Hon. C. Randall Hinrichs, J.S.C.

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U.S. Bank National Association, as Trustee, successor in interest to Wilmington Trust Company, as Trustee, successor in interest to Bank of America, National Association, as Trustee, successor by merger to LaSalle Bank National Association, as Trustee for Structured Asset Investment Loan Trust Mortgage Pass-Through Certificates, Series 2005-1,

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Plaintiff,

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-against-

Salvatore Russo; Chantal Russo and Brandon Russo,

Defendants.

JUDGMENT OF FORECLOSURE AND SALE

Index No. 070079/2014

Our File No.: 14-032358

ENTERED JAN 08 2019
AT: 1:54 pm

Premises:
38 Chanel Drive East
Shirley, NY 11967

District 0200 Section 978.80
Block 01.00 Lot 031.000

No directive

ON the Summons, Complaint and Notice of Pendency duly filed in this action on November 26, 2014, on the Additional Notice of Pendency filed on August 1, 2017, and all proceedings thereon; and on reading and filing the Notice of Motion dated July 30, 2018 and Affirmation of Regularity of Alexander Phengsiaroun, Esq. dated July 30, 2018, with exhibits annexed thereto, showing that all Defendant(s) were duly served pursuant to the laws of the State of New York with a copy of the Summons in this action, or have voluntarily appeared by their respective attorneys; and on the proof of service upon and appearance, if any, by the Defendant(s) herein heretofore filed in this action; and stating that more than the legally required number of days have elapsed since said Defendant(s) were so served; and that none of the Defendant(s) have served an answer to said Complaint, nor has their time to do so been extended; except for Defendant(s), Salvatore Russo and Chantal Russo, and

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ON the Order Granting Summary Judgment signed and entered on May 3, 2018,

appointing Tarsha Smith, Esq. as Referee in this action to ascertain and compute the amount due,

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and to examine the Plaintiff or its agent on oath as to the allegations of the complaint, and to

examine and report whether the mortgaged premises should be sold in one or more parcels;

AND on reading and filing of the oath and report of the aforesaid Referee sworn to and

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dated June 1, 2018, it appears that the sum of $274,424.57 was due the Plaintiff, as of May 9,

2018, plus a per diem interest for every day thereafter, on the date of said Report and that the

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mortgaged premises should be sold in one parcel.

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NOW, on motion of Shapiro, DiCaro & Barak, LLC, the attorneys for the Plaintiff, it is

CRH J.S.C

ORDERED, that the unopposed motion is granted; and it is further

ORDERED, ADJUDGED AND DECREED that the report of Tarsha Smith, Esq. dated

June 1, 2018, be, and the same is hereby, in all respects, ratified and confirmed; and it is further

ORDERED, ADJUDGED AND DECREED that by accepting this appointment the

referee certifies that they are in compliance with Part 36 of the Rules of the Chief Judge (22

NYCRR Part 36), including, but not limited to, § 36.2(c) ("Disqualifications from

appointment"), and § 36.2 (d) ("Limitations on appointments based upon compensation"); and it

is further

ORDERED, ADJUDGED, AND DECREED that the mortgaged premises (District

0200 Section 978.80 Block 01.00 Lot 031.000) as further described in the complaint in this action

and hereinafter described, or such part thereof as may be sufficient to discharge the mortgage

debt under the note and mortgage, the expenses of the sale and the costs of this action as

CRH J.S.C

Pursuant to RPAPL 1351.1, which at the discretion of the Court shall be the date of entry provided by the Real Property Actions and Proceeding Law be sold, in one parcel, at public

auction at the Brookhaven Town Hall, 1 Independence Hill, Farmingville, NY 11738 within ninety (90) days of the

entry of this Judgment by and under the direction of Tarsha Smith, Esq., who is hereby appointed

Referee for that purpose; that said Referee give public notice of the time and place of such sale in

accordance with law, practice of this Court and RPAPL § 231 in the Port Times-Record 185 Route 25A PO Box 707 E. Setauket, NY 11733

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_____ and that the Plaintiff or any other party to this action may become the purchaser at such sale; that in case the plaintiff shall become the purchaser at the said sale, they shall not be required to make any deposit thereon; that said Referee execute to the purchaser or purchasers on such sale a deed of the premises sold; that in the event a party other than the plaintiff becomes the purchaser or purchasers at such sale they shall be required to tender a deposit of 10% of the purchase price in certified funds and that all deed stamps, transfer taxes and recording fees, if any, shall be paid by the purchaser, and the closing of title shall be had thirty days after such sale unless otherwise stipulated by all parties to the sale and if such closing is required; and it is further,

ordered that in the event of a third-party sale, the plaintiff shall send an attorney to the closing; and it is further,

ORDERED, ADJUDGED AND DECREED, that said Referee on receiving the proceeds of the sale, shall forthwith pay therefrom, in accordance with their priority according to law, the taxes, assessments, sewer rents or water rates which are or may become liens on the premises at the time of sale with such interest or penalties which may have lawfully accrued thereon to the date of payment; and it is further,

ORDERED, ADJUDGED AND DECREED, that said Referee then deposit the balance of said proceeds of sale in his/her own name as Referee in any bank insured by FDIC, and shall thereafter make the following payments and his/her checks drawn for that purpose shall be paid by said depository;

FIRST: That statutory fees of the Referee in the sum of $500.00.

SECOND: The expenses of sale and the advertising expenses as shown on the bills presented and certified by said Referee to be correct, duplicate copies of which shall be annexed to the report of sale and filed with said Depository and Clerk of this Court.

THIRD: Said Referee shall also pay to the plaintiff or plaintiff's attorney, the sum $ 1891.30 to be computed by the County Clerk of ~~$1,891.30 to be determined by the Clerk~~ and adjudged to the Plaintiff for costs and disbursements in this action ~~or as taxed by the Clerk~~ calculated county on the

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QRH
JC

Costs of Plaintiff and inserted therein, with interest thereon from the date hereof; together with reasonable attorneys' fees in the sum of $6,087.50 as provided for in paragraph 22 of the mortgage, and also the sum of $274,424.57 the said amount so reported due as aforesaid, together with contractual interest thereon from May 9, 2018, the date interest was calculated to in said report to the date of entry of the Judgment and legal interest thereafter or so much thereof as the purchase money of the mortgaged premises will pay of the same, together with any advances necessarily paid by the Plaintiff for taxes, fire insurance, principal and interest to prior mortgages to preserve and or maintain the premises not previously included in any computations, said expenses being substantiated by proper receipts therefore.

FOURTH: If such Referee intends to apply for a further allowance for fees, the Referee may leave upon deposit such amount as will cover such additional allowance to await the further order of this Court thereon after application duly made.

That in case the plaintiff be the purchaser of said mortgaged premises at said sale, or in the event that the rights of the purchasers at said sale and the terms of sale under the judgment shall be assigned to and be acquired by the plaintiff, and a valid assignment thereof filed with said Referee, said Referee shall not require the plaintiff to pay in cash the entire amount bid at said sale, but shall execute and deliver to the plaintiff or its assignee, a deed or deeds of the premises sold upon the payment to said Referee of the amount specified above in items marked **"FIRST"** and **"SECOND"** and the amounts of the aforesaid taxes, assessments, sewer rents and water rates, with interest and penalties thereon, or in lieu of the payment of said last mentioned amounts, upon filing with said Referee receipts of the proper municipal authorities showing payment thereof; that the balance of the amount bid, after deducting therefrom the aforesaid

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amounts paid by the plaintiff for Referee's fees, advertising expenses, taxes, assessments, sewer rents and water rates shall be allowed to the Plaintiff and applied by said Referee upon the amounts due to the plaintiff as specified in item marked **"THIRD"**; that if after so applying the balance of the amount bid, there shall be a surplus over and above the said amounts due to the plaintiff, the plaintiff shall pay to the said Referee, upon delivery to plaintiff of said Referee's deed, the amount of such surplus; that said Referee on receiving said several amounts from the plaintiff shall forthwith pay therefrom said taxes, assessments, sewer rents, water rates, with interest and penalties thereon, unless the same have already been paid, and shall then deposit the balance.

The said Referee shall take the receipt of the Plaintiff or the attorneys for the Plaintiff for the amounts paid as directed in item **"THIRD"** above, and file it with the report of sale; that surplus monies be deposited, if any, with the Suffolk County Comptroller within five days after the same shall be received and be ascertainable, to the credit of this action, to be withdrawn only on an order of this Court, signed by a Justice of this Court. The Referee shall make the report of such sale under oath showing the disposition of the proceeds of the sale and accompanied by the vouchers of the persons to whom payments were made, and shall file it with the Suffolk County Clerk within thirty days after completing the sale and executing the proper conveyance to the purchaser and that if the proceeds of such sale be insufficient to pay the amount reported due to the Plaintiff with interest and costs as aforesaid, the Plaintiff shall recover from the Defendant(s), Salvatore Russo and Chantal Russo, unless discharged in bankruptcy, the whole deficiency or so much thereof as this Court may determine to be just and equitable of the residue of the mortgage debt remaining unsatisfied after a sale of the mortgaged premises and the application of the proceeds thereof, provided a motion for a deficiency judgment shall be made as prescribed by § 1371 of the Real Property Actions and Proceedings Law within the time limited therein, and the amount thereof if determined and awarded by an Order of this Court as provided for in said section; and it is further

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ORDERED, ADJUDGED AND DECREED, that the purchaser or purchasers at said sale be let into possession on production or delivery of the Referee's deed or deeds; and it is further

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ORDERED, ADJUDGED AND DECREED that each and all of the Defendant(s) in this action and all persons claiming under them, or any or either of them, after the filing of such notice of pendency of this action, be and they are hereby forever barred and foreclosed of all right, claim, lien, title, interest, and equity of redemption in said mortgaged premises and each and every part thereof; and it is further

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ORDERED, ADJUDGED AND DECREED, that said premises is to be sold in one parcel in "as is" physical order and condition, subject to any state of facts that an inspection of the premises would disclose; any state of facts than an accurate survey of the premises would show, any covenants, restrictions, declarations, reservations, easements, rights of way and public utility agreement of record, if any; any building and zoning ordinances of the municipality in which the mortgaged premises is located and possible violations of same; any rights of tenants or persons in possession of the subject premises; prior lien(s) of record, if any, except those liens addressed in § 1354 of the Real Property Actions and Proceeding Law; any equity of redemption of the UNITED STATES OF AMERICA to redeem the premises within 120 days from date of sale; and it is further; and it is further

ORDERED, ADJUDGED AND DECREED that Plaintiff shall serve the notice of the Foreclosure Sale and any adjournments and/or cancellations upon the Supreme Court Calendar Clerk; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee is directed to complete and ~~secure all signatures on~~ file the Suffolk County "Foreclosure Action Surplus Monies Form" ~~(which is available at chambers) and file the original form~~ with the Suffolk County Clerk's office and the Supreme Court Calendar Clerk within thirty (30) days ~~after~~ of the foreclosure sale; and it is further

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SOLUTIONSTAR

SCHEDULE A

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DESCRIPTION OF MORTGAGED PREMISES

Title No.: **12-01874114-P**

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ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Shirley, Township of Brookhaven, County of Suffolk and State of New York, known and designated as Plot 112 as shown on a certain map entitled, "Shirley, Long Island, New York, Unit O" made by Surveyor, Peter J. Van Weele, Company, Islip, New York, dated May 17, 1956 and filed in the Office of the Clerk of the County of Suffolk on September 25, 1956, as Map Number 2631, which said lot is more particularly bounded and described according to said map as follows:

BEGINNING at a point on the southerly side of Chanel Drive East distant 218.39 feet easterly from the easterly end of the arc of curve connecting the easterly side of Margin Drive East with the southerly side of Chanel Drive East;

RUNNING THENCE South 89 degrees 48 minutes 22 seconds East along the south side of Chanel Drive East, 75 feet;

THENCE South 0 degrees 11 minutes 38 seconds West, 120 feet;

THENCE North 89 degrees 48 minutes 22 seconds West, 75 feet;

THENCE North 0 degrees 11 minutes 38 seconds East, 120 feet to the south side of Chanel Drive East, the point or place of BEGINNING.

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PTS LWI 11/26/2014 RA

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ORDERED, ADJUDGED AND DECREED that the Referee shall submit proof of deposit of surplus monies, if any, with the County Comptroller, the Suffolk County Clerk and the Supreme Court Calendar Clerk within 30 days of the date of closing title; and it is further

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CELL JSC

~~ORDERED, ADJUDGED AND DECREED~~ that if the Foreclosure ~~Action Sur~~plus Monies form and proof of deposit, if any, are not timely filed, ~~the Calendar Clerk will notify~~ the assigned Justice within 90 days ~~and the matter will be calendared at the direction of the Jus~~tice for whatever action he or she deems appropriate.

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ORDERED, ADJUDGED AND DECREED, that transfer tax is not a lien upon the Property or an expense of sale, but rather an expense of recording the deed. All expenses of recording the Referee's Deed shall be paid by the purchaser and not the Referee from sale proceeds.

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ORDERED, ADJUDGED AND DECREED, that for purposes of statutory compliance with RPAPL 1351(1), the date of the Judgment of Foreclosure and Sale shall be deemed to be the date of entry of the Judgment of Foreclosure and Sale.

Said premises commonly known as 38 Chanel Drive East, Shirley, NY 11967. A description of said mortgaged premises is annexed hereto and made a part hereof as Schedule A.

Date: December 11, 2018

Hon. C. Randall Hinrichs, J.S.C.

ENTER,

Judith A. Pascale

GRANTED

DEC 11 2018

JUDITH A. PASCALE
Clerk of Suffolk County

Attorney certification pursuant
to 22NYCRR § 130-1.1-a
is affixed to inside cover.

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SUFFOLK COUNTY CLERK

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FOR

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INFORMATION

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ONLY FROM THIS

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

U.S. Bank National Association, as Trustee, successor in interest to Wilmington Trust Company, as Trustee, successor in interest to Bank of America, National Association, as Trustee, successor by merger to LaSalle Bank National Association, as Trustee for Structured Asset Investment Loan Trust Mortgage Pass-Through Certificates Series 2005-1,

Plaintiff,

-against-

Salvatore Russo and Chantal Russo, et al,

Defendants.

COSTS OF PLAINTIFF

Index No.070079/2014

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COSTS OF PLAINTIFF

Costs before note of issue CPLR Sec. 8201 subd.1		$200.00
Allowance by statute CPLR Sec. 8302 (a) (b)		150.00
Additional allowance CPLR Sec. 8302 (d)		50.00
Motion costs CPLR Sec 8302		0.00
	Costs:	**$400.00**

DISBURSEMENTS:

Fee for index number CPLR Sec. 8018 (a)	$400.00
Referee's fee CPLR Sec. 8301(a)1	250.00
Clerk's fee, filing notice of pend. or attach. CPLR Sec. 8021 (a)(10)	300.00
Paid for searches CPLR Sec. 8301(a)1	81.00
Serving copy summons & complaint CPLR Sec. 8011(c)1	275.30
Request for Judicial Intervention CPLR Sec. 8020(a)	95.00
Fees for Submission of Judgment and Order Granting Summary Judgment CPLR Sec. 8020(a)	90.00
Fees for publication CPLR sec. 8301(a)3	0.00
Disbursements:	1,491.30
Total Costs and Disbursements:	$1,891.30

COST TAXED AT $ 1891.30
TIME _____ DAY OF _____
JAN - 8 2019
JUDITH A. PASCALE
CLERK OF SUFFOLK COUNTY

Alexander Phengsiaroun, Esq.
Associate Attorney
SHAPIRO, DICARO & BARAK, LLC
Attorneys for Plaintiff
175 Mile Crossing Boulevard
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Fax: (585) 247-7380

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